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EXAMINER

NGUYEN, DUSTIN

ART UNIT	PAPER NUMBER
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2154

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DATE MAILED: 04/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/488,394

Applicant(s)

SITARAMAN ET AL.

Examiner

Dustin Nguyen

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

1. Claims 1 – 46 are presented for examination.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-46 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-55 of copending Application No. 09/488395 [ hereinafter '395 application ]. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

Taking claim 1 as an exemplary claim, the '395 application contains the subject matter claimed in the instant application. As per claim 1, both applications are claiming common subject matter, as follows:

A system for identifying a subscriber, comprising:

an access server ...;

a memory coupled to the access server ...; and

a processor couple to the memory and operable to identify the particular subscriber ...

The claim of '395 application do not specifically state the communication between the first communication network and the second communication network as described in the claim 1 of instant application but it would have been obvious to a person skill in the art to recognize that the two claims are similar because a communication network includes many network segments, data communicates between different network segments; Also by adding another network segment into the communication network as claimed in '395 application would create another network segment, which is the same as communication between first and second communication networks as claimed in the instant application.

As per independent claims 12, 20, 30, 38, 43, and 48, they are also directed to the same subject matter recited in claim 1 above. Accordingly, they are provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

As per dependent claims 2-11, 13-19, 21-29, 32-37,39-42, 44-47, and 49-55 of the '395 application, they contain similar subject matter as claims 2-10, 12-17, 19-25, 27-31, 33-35, 37-39, and 41-46 of instant application. Accordingly, they are provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-17, 26-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following terms lack antecedent basis:

- I. the particular virtual circuit - claims 1, 3, 11-13, 15, 26-28, 30, 32, 33, 36, 37, 40-42, and 44.
- II. the particular subscriber - claims 11-17, 26-31, 40-46.
- III. the particular access server - claims 12, 27, 41, 42.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5, 10-14, 17-21, 26-29, 32, 33, 36, 37, 40-43, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, Jr. et al. [ US Patent No 5115427 ], in view of Spiegel et al. [ US Patent No 5649108 ].

8. As per claim 1, Johnson discloses the invention substantially as claimed including a system for a identify a subscriber, comprising:

an access server coupled to a plurality of subscribers using a first communication network [ 501, Figure 1; and col 4, lines 7-20 ] and further coupled to a second communication network [ 1000, 6000, Figure 2; and col 4, lines 21-41 ], the access server operable to receive a communication from a particular subscriber using a particular one of a plurality of virtual circuits associated with the first communication network [ col 3, lines 28-37; and col 5, lines 63-67 ];

a processor coupled to the memory [ 501, 1000, 6000, Figure 1 ] and operable to identify the particular subscriber for connection to the second communication network [ col 2, lines 31-38 ] based upon the path information and the particular virtual circuit used to receive the communication from the particular subscriber [ col 7, lines 4-47 ]

Johnson does not disclose a memory coupled to the access server and operable to store path information.

Spiegel discloses a memory coupled to the access server [ 17, Figure 2 ] and operable to store path information [ col 7, lines 13-17; and col 8, lines 43-49 ].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Johnson and Spiegel because Spiegel's teaching would allow data to be stored in memory for later access, which increases the system performance.

9. As per claim 2, Johnson discloses

the access server comprises one of a plurality of access servers coupled to the processor [ 501, 1000, 6000, Figure 1 ]; and

the path information further identifies an access server assigned to the particular subscriber [ col 3, lines 19-27 ],

the processor is further operable to identify the particular subscriber based upon the path information and an identifier of the particular access server coupled to the particular subscriber [ col 9, lines 37-62 ].

10. As per claim 3, Johnson discloses the access server comprises

an interface coupled to the particular subscriber using the particular virtual circuit [ 6003, Figure 4 ]; and

a controller coupled to the interface [ 6006, Figure 4 ] and operable to communicate a request identifying the particular virtual circuit that couples the interface and the particular subscriber [ col 10, lines 18-40 ].

11. As per claim 4, Johnson does not disclose the interface comprises a plurality of network line cards; the path information further identifies a network line card assigned to the particular subscriber; and the processor is further operable to identify the particular subscriber based upon the path information and an identifier of a particular network line card coupled to the particular subscriber. Spiegel discloses the interface comprises a plurality of network line cards [ 10,

Figure 1 ]; the path information further identifies a network line card assigned to the particular subscriber [ col 6, lines 14-22 ]; and the processor is further operable to identify the particular subscriber based upon the path information and an identifier of a particular network line card coupled to the particular subscriber [ col 6, lines 23-53 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Johnson and Spiegel because Spiegel's teaching would provide scalability to the system.

12. As per claim 5, Johnson discloses the request comprises:

interface information identifying the interface coupled to the particular subscriber [ col 6, lines 66-col 7, lines 3 ];

virtual circuit information identifying the particular virtual circuit [ col 6, lines 52-63 ].

access server information identifying the access server [ col 7, lines 6-18 ];

13. As per claim 10, Johnson discloses the access server supports a communication session between the particular subscriber and the second communication network in response to identifying the particular subscriber [ claim 2 ].

14. As per claims 11-14, and 17, they are method claimed of claims 1-4, and 10, they are rejected for similar reasons as stated above in claims 1-4, and 10.

15. As per claims 18-20, they are rejected for similar reasons as stated above in claims 1, 2, and 4, respectively.



16. As per claim 21, it is rejected for similar reasons as stated above in claim 5.
17. As per claims 26-29, they are rejected for similar reasons as stated above in claims 1-4.
18. As per claim 32, it is rejected for similar reasons as stated above in claims 1, 3, and 10.
19. As per claim 33, it is rejected for similar reasons as stated above in claim 5.
20. As per claim 36, it is rejected for similar reasons as stated in claims 1 and 10.
21. As per claim 37, it is rejected for similar reasons as stated above in claim 5.
22. As per claims 40-43, they are rejected for similar reasons as stated above in claims 1-4.
23. As per claim 46, it is rejected for similar reason as stated above in claim 10.
24. Claims 6, 7, 22, 23, 34, 35, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, Jr. et al. [ US Patent No 5115427 ], in view of Spiegel et al. [ US Patent No 5649108 ], and further in view of Benash et al. [ US Patent No 6084892 ].

Art Unit: 2154

25. As per claim 6, Johnson and Spiegel do not disclose the request comprises a RADIUS protocol request. Benash discloses the request comprises a RADIUS protocol request [ col 10, line 19-22 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Johnson, Spiegel and Benash because Benash's teaching of RADIUS protocol would add another level of security protection to keep the data integrity and to increase the value of the system.

26. As per claim 7, Johnson and Spiegel do not disclose the request comprises a trivial file transfer protocol request. Benash discloses the request comprises a trivial file transfer protocol request [ col 4, line 44-45 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Johnson, Spiegel and Benash because Benash's teaching of file transfer would allow different types of data to carry across the system, which help to utilize the full capacity of the system.

27. As per claims 22, 23, 34, 35, 38, and 39, they are rejected for similar reasons as stated above in claims 6 and 7.

28. Claims 8, 9, 15, 16, 24, 25, 30, 31, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, Jr. et al. [ US Patent No 5115427 ], in view of Spiegel et al. [ US Patent No 5649108 ], and further in view of Sakauchi [ US Patent No 5239537 ].

Art Unit: 2154

29. As per claim 8, Johnson discloses the particular virtual circuit is associated with the particular subscriber using a virtual channel identifier [ col 2, lines 44-53 ]. Johnson and Spiegel do not disclose the virtual path identifier. Sakauchi discloses the virtual path identifier [ Abstract ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Johnson, Spiegel and Sakauchi because Sakauchi's path identifier would allow the system to correctly configure and adjust path for the virtual circuit.

30. As per claim 9, Johnson discloses the path information comprises a virtual channel identifier associated with the virtual circuit assigned to the particular subscriber [ col 4, lines 45-50 ]. Johnson and Spiegel do not disclose the virtual path identifier. Sakauchi discloses the virtual path identifier [ col 2, lines 7-28 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Johnson, Spiegel and Sakauchi because Sakauchi's path identifier would allow the system to correctly configure and adjust path for the virtual circuit.

31. As per claims 15, 16, 24, 25, 30, 31, 44 and 45 they are method claimed of claims 8 and 9, they are rejected for similar reasons as stated above in claims 8 and 9.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (703) 305-5321. The examiner can normally be reached on Monday – Friday (8:00 – 5:00).

Art Unit: 2154

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (703) 305-9678.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directly to the receptionist whose telephone number is (703) 305-3900.

Dustin Nguyen

  
**ZARNI MAUNG**  
**PRIMARY EXAMINER**